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FM AMEMBASSY NEW DELHI

TO RUEHCG/AMCONSUL CHENNAI 5365

RUEHCI/AMCONSUL KOLKATA 4575

RUEHBI/AMCONSUL MUMBAI 4393

RUEHC/SECSTATE WASHDC 8801

INFO RULSDMK/DEPT OF TRANSPORTATION WASHDC PRIORITY

RHMCSUU/DEPT OF HOMELAND SECURITY WASHINGTON DC PRIORITY

RHMCSUU/TSA HQ WASHINGTON DC PRIORITY

RUEHGP/AMEMBASSY SINGAPORE PRIORITY 2341

RUCNCLS/ALL SOUTH AND CENTRAL ASIA COLLECTIVE

RHMCSUU/FAA NATIONAL HQ WASHINGTON DC

RUCPDOC/USDOC WASHDC

UNCLAS SECTION 01 OF 04 NEW DELHI 002437

SENSITIVE

SIPDIS

STATE FOR SCA/INSB, SA/RA, EEB/TRA/OTP, EEB/TRA/AN

PASS TO DOT/SHADLEY

DEPT PLEASE PASS TO USTR/DWATSON/AADLER

DEPT PLEASE PASS TO EXIM/DFARRELL

DHS PASS TO TSA/OCC MSHARABI, TSA/OGS DMCQUAID, JCASTLEBERRY

SINGAPORE FOR TSA/TKEENE

E.O. 12958: N/A

TAGS: [EAIR](#) [PREL](#) [PTER](#) [ETRD](#) [EFIN](#) [ECON](#) [IN](#)

SUBJECT: TOP CONCERNS OF U.S. CIVAIR COMPANIES IN INDIA

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REFTELS: A) STATE 122215; B) NEW DELHI 1814; C) STATE 100862

D) NEW DELHI 2036; E) NEW DELHI 2416

¶1. (SBU) Summary: At a roundtable discussion with Emboffs on November 23, representatives of U.S. airlines, express delivery services and aircraft manufacturers discussed their doing business concerns in order to provide input to government-to-government meetings scheduled to take place on the margin of the second U.S.-India Civil Aviation Partnership Summit in Washington, D.C. December 6-12. Industry reps were generally optimistic about increased economic growth in recent months in India which was helping their business operations as well as prospects for future growth, but noted that the continued slow economic growth in the United States, combined with increased competition from Middle Eastern and Asian carriers, meant that the days of easy profits in India were over. Their principal doing business concerns were: conflicts between TSA security directives for secondary screenings on direct flights to the United States and the Government of India (GOI) Bureau of Civil Aviation Security (BCAS) regulations; a new ground-handling policy scheduled to take effect January 1 as well as the high rates of fees generally; and a new policy requiring mandatory travel agent commissions. Express delivery providers were positive about being part of the process in the formulation of the new Postal Bill due to be submitted to Parliament in mid-to-late ¶2010. Boeing also alerted Emboffs GOI officials might ask EXIM to forgive/delay payment of the interest/principal of EXIM loan to cash-strapped Air India during their Washington D.C visit. End Summary.

¶2. (U) Roundtable industry participants included: Laurent Recoura, Senior Country Director India, Continental Airlines; Dinesh Keskar, President, Boeing India; Larry Coughlin, Industry Co-Chair, U.S.-India Aviation Cooperation Program; Phillip Lewin, Country Manager India, American Airlines; Deepa Das, Senior International Legal Advisor, FedEx Express India; and D. C. Selvan, Director, UPS India. Embassy participants included the EEST M/C, FAA Rep, Econoffs, TDA Rep and an FCS FSN.

Secondary Screenings - Conflict between GOI and USG Regulations

¶3. (SBU) Continental's Recoura stressed the difficult position that U.S. carriers in India operating nonstop flights to the United States were placed in due to the conflict between the USG and GOI security screening policies. The GOI Bureau of Civil Aviation Security (BCAS) regulations provide for exemption from security screenings for an extensive list of "VVIPS", whereas TSA policy only exempts active heads of state with security detail. Adhering to TSA policy for secondary screenings, and thereby failing to follow BCAS regulations, puts American and Continental employees at risk of arrest and possible imprisonment in India, while a failure to follow TSA directives would subject the airlines to sanctions in the United States. Further, it appears that the GOI may be questioning the very legality of the secondary screenings (as evidenced by a recent "Notice to Show Cause" to Continental, which questioned both its frisking of former President Kalam and its secondary screening not approved by the BCAS, Ref A). Neither airline, however, has been asked by the GOI to stop secondary screenings. American and Continental reps strongly expressed the hope that ongoing USG-GOI discussions will resolve these conflicts. Continental and American reps continue to seek clear and consistent direction on the security procedures they are required to follow. Until they receive such guidance, however, both American and Continental will strive to avoid having an exempted VVIP fly on one of their direct flights. Neither wants a repeat of the Kalam incident (ref B).

New Ground Handling Policy and Airport Fees

¶4. (SBU) The New Ground Handling Policy notified by the Directorate General of Civil Aviation (DGCA circular No. 7 of 2007) prohibits domestic airlines from self-handling at the six metropolitan airports and international airlines from self-handling at any airport in India. In addition, the new policy limits the number of

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ground-handling companies to three at the six major metropolitan airports (Delhi, Mumbai, Kolkata, Chennai, Hyderabad and Bangalore). However, an exemption was issued that allows self-handling until December 31, 2009. Although the New Ground Handling Policy is now scheduled to come into effect as of January 1, 2010 and carriers are making necessary preparations to comply, Boeing's Dinesh Keskar expected further delays on implementation since the new policy would disadvantage Indian carriers that self-handle as well.

¶5. (SBU) The express delivery carriers, FedEx and UPS, are extremely concerned about effects of the new policy and are advocating for the right to self-handle. They argue that the U.S.-India Air Transport Agreement not only gives them the right to self handle but express operations have specific needs that require operating procedures which only express carriers themselves can do effectively. For example, express carrier shipments must be sorted according to destination, as well as color-coded, bagged and scanned at various points. They said self handling is vital to ensuring quality of service and any decrease in service quality would render the express delivery business model redundant. Another concern is the new policy would make express carriers dependant on third parties for sensitive security functions by outsourcing the screening of cargo. Currently FedEx and UPS employees (certified by BCAS) conduct screening of cargo at Delhi and Mumbai. However, per a new circular issued by the airport operator at Mumbai (MIAL), the security screening function has been outsourced (to private vendors with BCAS certification). Nevertheless, FedEx and UPS employees have so far been allowed to continue to screen but also have to pay screening charges to MIAL as if MIAL were providing the services. FedEx and UPS are contesting this with the Ministry of Civil Aviation (MOCA) through the Board of Airline Representatives.

¶6. (SBU) Continental's Recoura told Econoffs that the New Ground Handling Policy is not a huge concern for U.S. passenger carriers and Continental has already contracted out its ground handling. Recoura was more concerned about the high cost overall of doing business in India compared to other countries as well as the possibility that the GOI might try to increase airport fees to pay for infrastructure improvements at the new international terminal being built in New Delhi. American Country Director Lewin concurred

and said he hoped the newly formed Airports Economic Regulatory Authority (AERA) would keep a cap on excessive fees. (Note: GOI established AERA in May 2009 to regulate tariffs for aeronautical services, determine airport charges for services rendered at major airports, and to monitor performance standards of such airports. End Note.) Lewin also said American is in the process of contracting with one of the approved ground-handling companies since it currently self-handles. Lewin added that there are now four approved ground handling companies at New Delhi, not three as called for in the DGCA 2007 circular. The four are: Bird (World Wide Flight Services), Menzies-Cambata, AI-SATS (joint venture of Air India and Singapore Air) and Celebi.

Concerns About Mandatory Travel Agency Commissions

¶ 17. (SBU) U.S. passenger carriers remain concerned about a possible mandatory travel agency commission policy, but the timing of such a policy change is less clear. Delta, American and Continental currently operate on a zero commission basis in India. The Travel Agents Association of Indian challenged this move in the Kerala and Karnataka High Courts, and in 2009, the DGCA was asked to determine whether mandatory travel agency commissions should be imposed. Because of the potential adverse economic impact on U.S. interests, on September 30, Econoffs delivered a demarche advocating against mandatory commissions (refs C and D) and subsequently learned a decision was likely by year-end. At the roundtable, Recoura and Lewin said, at a recent meeting at MOCA, they were told that the Directorate General of Civil Aviation (DGCA) has determined it does not have jurisdiction to decide the issue and the matter has been sent to the Law Ministry for a legal finding. Continental believes this means there will be no formal decision for quite a long time, possibly years. American was more uncertain about the timeline. (Note: Separately (ref E), Econoffs verified with MOCA Secretary

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Nambiar and Joint Secretary Sukul that a decision has been made and was being sent to the Law Ministry for a legal finding. They did not expect this review to be lengthy. They would not comment on the substance of the decision beyond saying it was consistent with previous discussions with Washington, D.C. officials and Econoffs on the issue. End Note.)

Positive Prospects for New Postal Bill

¶ 18. (SBU) UPS and FedEx discussed their more hopeful prospects for a new Postal Bill that will take industry concerns into account. Express delivery companies had been fighting problematic postal bills for years, resulting in the last proposed legislation being withdrawn in January of 2009, due to opposition from many stakeholders, including express courier service providers. Now, after many years of playing defense, it appears that the express delivery companies will have a chance to influence the legislation positively as they have been invited to comment during the drafting of the bill. In addition, the deadline appears more reasonable than the January or February 2010 deadline they had previously heard.

¶ 19. (SBU) Selvan explained that carriers had recently learned that in August of 2009, the Indian Post Office asked the Administrative Staff College of India (ASCI) in Hyderabad to prepare a new comprehensive postal bill. U.S. express delivery companies, together with other Express Industry Council of India members, like DHL and TNT, reached out to ASCI staff drafting the bill, who welcomed the opportunity to hear industry concerns and discuss global best practices. ASCI agreed to hold a series of meetings with industry before the bill is finalized, with the first meeting on December 2. Selvan said ASCI expects the bill will be ready for the Ministry of Information & Technology to table it in Parliament by mid to late 2010. Selvan hoped industry's participation would minimize or prevent the following from being part of the bill: a requirement that service providers contribute to financing the postal operator's universal service obligation (under 2006 draft bill as much as 10 percent of turnover); expansion of the postal monopoly to cover all "letters" up to 300 grams; and limitations on foreign investment in all private delivery services (from the

current 100 percent to 49 percent).

EXIM Loan to Air India

¶10. (SBU) Boeing India President Dinesh Keskar alerted Econoffs to a potential issue that might be raised by members of the Indian delegation during the Summit. He said that they might ask EXIM (Export-Import Bank of the United States) to forgive or delay payment of the interest/principal of loan to cash-strapped Air India. Boeing Keskar is head of both FICCI's Aviation Committee and AmCham's Civil Aviation Committee and has deep contacts in the aviation industry. After the roundtable, Econoff contacted MOCA Deputy Secretary Shubha Thakur, who will be part of the GOI delegation to the Summit, and asked what topics would be raised by the Indian Delegation. She stated they would be prepared to discuss the Airport Technical Visit and Federal Air Marshal MOUs, secondary screenings/VVIP exemptions, ground handling, mandatory travel agency commissions as well as IASA related topics and code shares. Econoff pressed for any other potential issues and Deputy Secretary Thakur said that to her knowledge these would be the only topics raised.

Business Improving in India

¶11. (SBU) Roundtable participants agreed that the aviation business in India, while costly, had improved and they see India's huge market as an opportunity. American's Lewin said the current situation was the best he has seen -- then caveated that he had only been in country seven months. Recoura confirmed Lewin's upbeat analysis by saying passenger capacity for Continental was also up, as was the fare quality. Recoura noted, however, that there was more intense competition for fares than in the past, with many passengers from the United States opting for cheaper fares offered

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by Middle Eastern carriers via Dubai and West Coast price-sensitive passengers opting for cheaper fares offered by Asian carriers. Boeing's Keskar noted that Air India wasn't able to benefit from the increased willingness of passengers to pay for first and business class since most of its seats in this category were provided gratis to GOI officials or Air India executives. Keskar added that long-term improvement in India's civil aviation sector would depend on continued progress in economic recovery in the United States as well as India.

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